IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9448 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NAVJYOT CO OP HOUSING SOCIETY LTD - Petitioner
Versus
VADODARA MUNICIPAL CORPORATION & 2 - Respondent(s)

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Appearance :
MR MC BHATT for Petitioner(s) : 1,
MR PRANAV G DESAI for Respondent(s) : 1,
MR SATYAM CHHAYA AGP for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 09/03/2007

ORAL JUDGMENT

1. The petitioner has preferred this petition

for the relief inter alia to direct respondent No.1 – Corporation to immediately and forthwith grant revised permission for 15 residential buildings constructed on land bearing Survey No.338 situated at village Gorwa and the petitioner has also prayed to direct respondent No.1 to issue occupancy certificate and provide water and drainage connections to newly constructed buildings on land bearing Survey No.338 situated in village Gorwa. The petitioner has further prayed to issue occupancy certificate for 38 buildings constructed on land bearing Survey No.31 and 32 situated in village Tandanlja and also for drainage and water connection for such constructed buildings.

2. Heard Mr. Thakore, learned counsel for Mr. M.C. Bhatt, learned counsel for the petitioner and Mr. Pranav G. Desai, learned counsel for the Corporation and Mr. Satyam Chhaya, learned A.G.P. for respondents No.2 and 3.

3. Upon hearing the learned counsels for both the sides, it appears that when the petition was preferred, it was at the stage, where the construction permission was granted and as per the petitioner, certain permissible modifications were made and revised development plans were also submitted and at that stage, on account of the change in conditions of exemption of the land under Section 20 of the Urban Land Ceiling (Regulations) Act, 1976, objection was taken but any occupancy certificate certificates were not issued nor drainage and water connections were granted by the respondent, Corporation, the petition was preferred.

4. It may be recorded that this Court (Coram : D.G. Karia, J.) on 7.5.1997 has passed following order :

> “Rule. Mr. P.G. Desai, ld. Advocate,waives service of rule on behalf of Respondent No. 1. Ms. Ami Yagnik, ld. A.G.P. waives service of rule on behalf

of Respondent No.3.

Heard the learned Advocates appearing for the parties on interim relief. The notice was ordered to issue on 8.1.1997 returnable on 24.1.1997. Thereafter several dates were taken by the parties for filing the reply and somewhere in April 1997 Mr.Desai,ld.Advocate for the respondent-Municipality was directed to keep the concerned officer of Vadodara Municipal Corporation present so as to solve the problem of providing drainage and water connections to newly constructed buildings on the land in question. However, no meaningful or fruitful result was achieved.

Today at the time of hearing Ms. Yagnik, ld. A.G.P. places a show-cause notice dated 24.8.1994 on record indicating, inter alia, that the permission under sec. 20 of the U.L.C. Act would have been erroneously granted to the petitioner-Society. There is nothing on record to show as to what had further transpired in connection with the said show-cause notice said to have been issued way back in August 1994. No affidavit-in-reply is filed by either of the parties. Thus, in the overall facts and circumstances of the case, the

first respondent is directed, by way of interim relief, to provide water and drainage connection to the newly constructed buildings on land bearing S. No. 338 of village Gorva, S.No. 31 & 32 of village Tandalja and S.No.277 of village Vasna-saiyad of District-Sub district Vadodara in accordance with the rules of the Corporation.

At this stage Mr. Desai, ld. Advocate for the first respondent, requests for stay of the order. The request is rejected.

Direct service is permitted."

5. It appears that by interim order, direction was given to provide water and drainage connection to the newly constructed building on land bearing Survey No.338 of village Gorva, Survey No.31 and 32 of village Tandalja and Survey No.277 of village Vasna-Saiyad of District Vadodara.

6. Learned counsels appearing for both the sides are in agreement on the point that no decision is

uptill now taken by the Corporation either for sanctioning the revised plans or for issuing occupancy certificate, Mr. Desai, learned counsel appearing for the Corporation declared before the Court that within some reasonable time, the decision will be taken by the Commissioner of the Corporation in accordance with law after giving opportunity of hearing to the petitioner.

7. Under the above circumstances, I find that until the decision is taken, this Court may not be in a position to examine the legality and validity of such decision and also entitlement of the petitioner for sanctioning of the revised development plans and / or occupancy certificate as the case may be. However, since by interim order, the drainage and water connections are ordered to be given and therefore, such can be continued until the Corporation takes appropriate decision in this regard. As the matter is pertaining to the essential supply, some reasonable time may also be provided to the petitioner, in the event, the decision of the

Corporation is adverse to the petitioner.

8. Under the above circumstances, I find that following directions shall meet the ends of justice :

(1) Respondent No.1, Corporation shall take appropriate decision on the revised development plans submitted by the petitioner qua land in question and shall also take appropriate decision on the aspect of issuance of occupancy certificate. Both shall be after giving opportunity of hearing to the petitioner and preferably within a period of four months from the receipt of the order of this Court.

(2) Until, the decision is taken and it is communicated to the petitioner by Registered A.D. Post and for further period of two weeks from the date of such communication by Registered A.D. Post to the petitioner, interim order passed by this Court for drainage and water connections shall continue to remain in operation.

It is made clear that in event of the decision of the Corporation is against the petitioner, the petitioner may have remedy as may be permissible in law.

9. The petition is disposed of in terms of the aforesaid directions. Rule is partly made absolute to the aforesaid extent. There shall be no order as to costs.

(JAYANT PATEL, J.)

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